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10/705,673

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Satoshi Mizutani

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EXAMINER

REICHLE, KARIN M

ART UNIT

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3761

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/705,673 | Applicant(s) MIZUTANI ET AL. | |
| | Examiner Karin M. Reichle | Art Unit 3761 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-27, 29 and 31-33 is/are pending in the application.
- 4a) Of the above claim(s) 4-18, 21-27, 29 and 31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19, 20, 32 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/15/08, 1/23/08, 1/31/08, 4/3/08, 4/29/08, 6/2/08</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 4-18, 21-27, 29 and 31 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7-7-05. The layer configuration species of Figure 43, the pad and inner wrapping configuration species of Figure 6A, the outer wrapping configuration species of Figure 22, and the outer package configuration species of Figure 51 were elected.

Response to Amendment

2. The amendments to the specification filed 5-8-08 do not comply with 37 CFR 1.121. For example, three separate abstracts were submitted, a clean copy, a marked up copy and another clean copy on page 4. The clean copy and marked up copy can not be entered because the marked up copy does not properly show the changes made to the last known text thereof, i.e. the text of 11-13-06, to arrive at the clean copy and the second copy of the abstract, which is not accompanied by a marked up copy, however is not the same as the first copy of the abstract, i.e. not clear what version of the abstract is desired. Therefore, such have not been entered. The substitute specification filed 5-8-08 also does not comply with 37 CFR 1.121 because it does not show all the changes made to the 11-13-06 specification alone or such as amended 4-25-07, e.g. compare the last paragraph of the clean copy of 11-13-06 to the second full paragraph of page 4 of the 5-8-08 marked up copy. Note also paragraph 3 of the last Office Action. Therefore the

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following action is still based on the substitute specification and abstract filed 11-13-06, and as amended 4-25-07, the Figures filed originally and 11-13-06 as well as 5-8-08, but see discussion infra with regard to the latter, and the claims and remarks filed 5-8-08.

Specification

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

For Example:

Drawings

3. The drawings were received on 5-8-08. These drawings are not approved by the Examiner. Figure 28 as proposed still does not denote adhesive 16. With regard to proposed Figure 7, such appears to be identical to that originally filed and thereby already of record. Therefore see the following paragraphs.

4. The drawings are objected to because in Figure 28, the adhesive, see page 40, last two lines, should still be denoted. The Figures and descriptions thereof throughout the specification should be carefully reviewed and revised, as necessary, to provide a consistent description both pictorially and textually. Applicant is thanked in advance for his/her assistance in placing the specification in consistent form. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior

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version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Description

5. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: the abstract, last sentence.

6. The disclosure is objected to because of the following informalities: The specification is still replete with informalities. For example: 1) The Summary of the Invention section, i.e. a description of the claimed invention, and the invention of the claims are still not commensurate in scope, see MPEP 608.01(d), especially in light of the amendments to claim 1. Note also 37 CFR 1.75(d)(1) and MPEP § 608.01(o). However also note the discussion infra. 2) Is the

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broken line 15 only provided in the rear face of the wrapping container? If so, how is the front face of the wrapping container divided as shown in Figure 7? It should be noted that the front face of the wrapping container, that is the container in its folded and closed position is believed to be as shown in Figures 1(D) or 3(B), i.e. how is tape 14 and sealed longitudinal ends on the front end torn? 3) It is also not unclear how the various “implementations” set forth in the portion of the Summary of the Invention section that has been relocated after the subtitle Detailed Description of the Invention, other than those that specifically refer to a specific Figure, relate to the descriptions of the various embodiments which follow. 4) The portions of the relocated text referred to in 3) which clearly set forth certain Figures should be relocated to those portions of the description discussing those Figures. 5) At the very least, see the discussion *infra* in paragraphs 8-9 *infra*, a clear, consistent description of the invention should be set forth throughout the application. The specification should be carefully reviewed and revised, as necessary, to overcome all the informalities. Applicant is thanked in advance for the cooperation in placing the specification in proper form.

Appropriate correction is required.

Claim Objections

7. Claims 33, 19-20 and 32 are objected to because of the following informalities: In claim 33, lines 29-30, delete “and each...edge”. On line 32, before “finger”, insert --respective--. On line 34, change “pieces” to --sections--. On lines 36-37, change “pad...to do so”, to --the pad--. On line 40, before “affixed”, insert --directly--. In claim 32, lines 2 and 3,

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change “separate” (each) to --separable--. Note also discussion in paragraph 8 infra.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. Claims 33, 19-20 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 33, the invention which is claimed on lines 1-2, i.e. a wrapping container for individually wrapping an interlabial pad, is still inconsistent with that on lines 3 et seq, i.e. the container is claimed as including a pad, e.g. if the pad on lines 3 et seq is not the pad referred to on lines 1-2, how can the wrapper be capable of individually wrapping another pad yet if the pad on lines 3 et seq is the pad on lines 1-2, then the invention is a container which wraps a pad rather than just for wrapping a pad. It is suggested that on lines 1-2, “for” is deleted (note similar language in claims 19-20 and 32 preambles). Also, the last two lines of claim 33 are unclear, i.e. what structure is Applicant claiming as being required due to the language “at the very most”, i.e. it appears that some structure is being claimed as being optional. Furthermore, a positive antecedent basis for “the portion including ...sheet”, last two lines, should be set forth.

9. Claims 33, 19-20 and 32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the

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claimed invention. See Claim 33 as well as the discussion in the paragraphs supra, especially the preceding paragraph. The specification as originally filed describes/supports a wrapping container for individually wrapping an interlabial pad which pad has an elongated shape comprising a liquid permeable surface sheet having a body faceable side and an opposite side, a liquid impermeable back sheet having a body faceable side and an opposite side, an absorbent body in between the surface sheet and the back sheet, and a belt-like mini sheet piece directly affixed to the opposite side of the back sheet along first opposing edges thereof which are opposed along a first transverse direction of the backsheet and pad and unattached along second opposing edges which are opposed along a second direction that is transverse to the first direction to provide an opening in combination with the opposite side of the back sheet for inserting and passing a finger therethrough in order to remove the pad from the container with one hand and insert and remove the pad from a wearer and the container comprising a wrapping sheet for enclosing the pad having an interior surface and an exterior surface, a broken line defining perforations disposed on the wrapping sheet for completely separating or dividing separable sections of the wrapping container into two separate sections, and finger insertion portions formed by two mini sheet pieces that are directly attached to the exterior surface of the two separable sections of the wrapping container, respectively, wherein each of the two mini sheet pieces is attached to one of the two separable sections along first opposing edges of the mini sheet which first opposing edges are opposed along a first direction that is transverse to the broken line, each of the two mini sheet pieces is unattached along second opposing edges of the mini sheet, which second opposing edges are opposed along a second direction that is parallel to the broken line and each second opposing edge to provide an opening in combination with the

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exterior surface of the one separable section for inserting and passing a finger therethrough to mount the container on the other hand and permit the fingers to move apart along the first direction to separate and divide the container into two separate pieces so that the pad can be removed with the one hand and each separated section can be used to hygienically insert and/or remove a pad with a finger inserted into each finger insertion portion thereof to do so, the body faceable side of the surface sheet of the interlabial pad when contained being in contact with the broken line of the wrapping sheet before the wrapping container is divided and separated and facing a portion of the sheet which includes the finger insertion portions and the outer side of the back sheet of the interlabial pad with the affixed belt-like mini-sheet piece being on a side of the interlabial pad opposite to the body faceable side of the surface sheet so as to face away from the broken line and the portion of the sheet including the finger insertion portions. At the very most (see discussion in paragraph 6, 5) *supra*), this is not what is now claimed. If Applicant maintains such claim language, the portion of the original specification which provides support for the entire scope of each claim in a single embodiment should be set forth.

Claim Language Interpretation

10. The claim terminology is interpreted in light of the specific definitions in the paragraph at the top of page 17 of the amendment to page 29 of 4-25-07. Any other claim language not specifically defined has been interpreted in view of the usual and common meaning of such, i.e. the dictionary definition. Also, as best understood, the terminology “wrapping body” refers to the combination of the wrapping container and the pad, and the “wrapping container” is the finished product of “wrapping sheet” without the pad. The terminology “mini

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sheet piece” is interpreted to require a piece which is a sheet of a size smaller than some other structure of the container. With regard to the terminology “affixed” and “attached”, such terminology includes indirect and/or direct affixation or attachment. With regard to claim 33, and thereby the claims which depend from such, see the discussion in paragraphs 6-9 supra and 11-12 infra as well as MPEP 2163.06, I. With regard to claim 32, it is noted that this claim only requires each mini sheet piece attachment at some point being at equal and opposing distances from the broken line.

Patentably Distinguishable Subject Matter

11. The prior art, alone or in any combination, do not teach the invention of claims 33, 19-20 and 32, as best understood, see discussion supra, i.e. the combination of an absorbent interlabial pad with a belt-like mini sheet piece finger insertion portion and a wrapper with a broken line and finger insertions portions as claimed wherein the finger portion of the pad faces in opposite direction from the finger insertion portions and broken line of the wrapping sheet when the latter individually wraps the former.

Response to Arguments

12. Applicant’s remarks with regard to matters of form have been considered but are either deemed moot in that they have not been reraised or deemed not persuasive for the reasons discussed supra. It is noted that Applicant’s remarks on page 18, second full paragraph do not appear to be commensurate with the description, i.e. where is this disclosed by the originally filed application? It is further noted that neither Figures 1(D) or 3(B) or 7 show such. Applicant

is also requested to refer to the page and line numbers of the approved substitute specification or original specification rather than the paragraphs of the PGPub.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any new grounds of rejection were necessitated by the addition of claim 33 and the cancellation of claim 1.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Karin M. Reichle/
Primary Examiner, Art Unit 3761

August 5, 2008